


**FILED**

UNITED STATES DISTRICT COURT  
ALBUQUERQUE, NEW MEXICO

IN THE UNITED STATES DISTRICT COURT

JUN 14 2010 

DISTRICT OF NEW MEXICO

MATTHEW J. DYKMAN  
CLERK

AMY BARTELS,

\*

Plaintiff,

\*

-vs-

\* Case No: 10cv570 RHS

WELLS FARGO BANK, NA,

\*

Defendant.

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**COMPLAINT**

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**JURISDICTION**

Jurisdiction of this court arises under 28 U.S.C. 1331 and pursuant to 15 U.S.C. 1681 et seq, and pursuant to 28 U.S.C. 1367 for pendent state law claims. This action arises out of Defendant's violations of the Fair Credit Reporting Act., 15 U.S.C. 1681, et seq' ("FCRA")

**PARTIES**

Plaintiff, Amy Bartels., is a natural person residing in the State of Iowa, County of Johnson. Plaintiffs address is 1447 Valley View Drive, Unit A, Coralville, Iowa 52241.

Defendant Wells Fargo Bank, NA does business in Iowa and New Mexico, and its address is PO Box 94435, Albuquerque, New Mexico 87199.

**VENUE**

Venue is proper in this district because the acts and transactions occurred here, and the Defendants transact business here.

## **FACTS**

In March 2008 Plaintiff filed for Chapter 7 Bankruptcy in the Southern District of Iowa. Plaintiff included in this Bankruptcy Petition a debt listed by Wells Fargo Bank, NA.

In March 2008 notice of Plaintiffs Bankruptcy and the fact that Defendant was a listed creditor was served upon the Defendant.

In April 2008 Meeting of the Creditors was held in Davenport, Iowa. No objection to Plaintiff's Bankruptcy petition was made at this time.

In June 2008 Plaintiff was granted a discharge and notice was served upon the Defendants.

In March 2010, Plaintiff reviewed her credit report and noticed that the defendant continued to list a current debt with their company notwithstanding the Southern District of Iowa granting a Bankruptcy discharge. Plaintiff wrote a letter to Defendant and informed them of her Bankruptcy discharge. As of June 1, 2010, Defendant continues to refuse to properly update its records with Plaintiff as to reflect the Discharge of the debt in Bankruptcy.

As a result of the Defendants activities or lack thereof the Plaintiff has suffered loss of self-esteem and peace of mind, and has suffered emotional distress, humiliation and embarrassment, and defamation of Credit.

The acts and omissions of the Defendants and its representatives, employees and or agents constitute numerous and multiple violations of the FCRA.

All actions taken by employees, agents, servants, or representatives of any type for Defendant were taken in the line and scope of such individuals' (or entities') employment, agency, or representation.

Defendants' actions - engaging in a pattern and practice of wrongful and unlawful behavior, i.e. reporting false and inaccurate information - were malicious, wanton,

reckless, intentional or willful, and performed with the desire to harm Plaintiff, with the knowledge that their actions would very likely harm Plaintiff, and that their actions were taken in violation of the law.

The actions, omissions, misrepresentations, and violations of the FCRA, federal law, and state law by Defendants, regarding the Plaintiff's discharged account, as described herein, constitute harassment which has resulted in the negligent and intentional infliction of mental and emotional distress upon Plaintiff proximately causing Plaintiff to suffer severe mental distress, mental and physical pain, embarrassment, and humiliation of which Plaintiff will in the future continue to suffer.

### **FCRA CLAIMS**

Plaintiff incorporates by reference all previous paragraphs.

In the entire course of their actions, Defendant willfully and/or negligently violated multiple provisions of the FCRA in one or more of the following respects:

a. By willfully and/or negligently reporting information it knew to be false as it related to Plaintiffs debt.

Taking illegal actions against Plaintiffs

- b. Refusing to properly update Plaintiffs' accounts;
- c. Failing to show the accounts as being discharged in Chapter 7 Bankruptcy
- d. Reporting the invalid debt on Plaintiffs' credit reports.

The foregoing acts and omissions were undertaken by Defendant willfully, intentionally, and knowingly as part of their routine debt collection business and/or in gross reckless disregard for Plaintiffs' rights.

As a result of the above violations of the FCRA, Defendant is liable to Plaintiff for a

declaratory judgment that their conduct violated the FCRA, and Plaintiffs' actual damages, statutory damages, and punitive damages.

### **NEGLIGENT, RECKLESS AND WANTON CONDUCT**

Plaintiff incorporates herein by reference paragraphs all previous paragraphs.

Defendant's acts, as described herein, were done so negligently and without care or concern for the well-being of the Plaintiff.

As a proximate consequence of the defendant's negligence, Plaintiff has been caused to suffer severe emotional and mental distress, and Defendant is liable to Plaintiff for actual, compensatory, and punitive damages, costs, and any other and further relief deemed appropriate by this Court.

### **HARASSMENT**

Plaintiffs incorporate by reference all previous paragraphs

Defendants' acts, as described herein, were done so intentionally, maliciously, and willfully, and without care or concern for Plaintiffs well being. The Defendants's harassing collection tactics, and/or refusal to assure the accuracy of the information published regarding the Plaintiff, created a hostile environment for Plaintiff.

As a proximate consequence of the Defendant's harassment, Plaintiff has been caused to suffer severe emotional and mental distress, and Defendant is liable to Plaintiffs for actual, compensatory, and punitive damages, costs and any other further relief deemed appropriate by this Court.

### **INVASION OF PRIVACY**

Plaintiffs incorporate by reference all previous paragraphs.

Defendant's conduct, as described herein, constitutes an invasion of Plaintiffs' privacy in that it intrudes into Plaintiff private life, publishes private facts regarding Plaintiffs, and places Plaintiff in a false light in the eyes of those to whom the publications are made.

Defendant's actions were done maliciously, without privilege, and with a willful intent to injure Plaintiff.

As a proximate consequence of the Defendant's invasion of Plaintiffs' privacy, Plaintiff has been caused to suffer severe emotional and mental distress, and the Defendants is liable to Plaintiff for actual, compensatory, and punitive damages, costs and any other and further relief deemed appropriate by this Court.

#### **DEFAMATION**

Plaintiffs incorporate by reference herein all previous paragraphs

Defendants published false information about Plaintiff by reporting to one or more of the CRAs, or other third parties, namely failing to notate that Plaintiffs accounts were discharged in Bankruptcy.

Likewise, Defendants published false information about Plaintiff each time Plaintiff's credit report was accessed - which was the result intended by Defendant.

The publications and defamations were done maliciously, without privilege, and with a willful intent to injure the Plaintiff.

As a proximate consequence of Defendants' false reporting or publishing, Plaintiffs has been caused to suffer severe emotional and mental distress, and Defendants are liable to Plaintiffs for actual, compensatory, and punitive damages, costs and any other and further relief deemed appropriate by this Court.

#### **INTENTIONAL MISREPRESENTATION**

Plaintiffs incorporate by reference all previous paragraphs.

Defendants intentionally, maliciously, recklessly and/or negligently misrepresented material facts in that they falsely represented to others that Plaintiff is a deadbeat and still bears financial responsibility for the aforementioned accounts.

Defendants intend that those who review the credit reports of the Plaintiff will rely upon the misrepresentations and suppressions of material fact related to the mentioned accounts.

Defendant's intended that the justifiable and reasonable reliance by others would adversely affect the Plaintiff.

As a proximate consequence the Defendants' intentional misrepresentation, Plaintiff has been caused to suffer severe emotional and mental distress, and Defendants are liable to Plaintiff for actual, compensatory, and punitive damages, costs and any other and further relief deemed appropriate by this Court.

#### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff respectfully requests that judgment be entered against the Defendant for the following:

- (a) actual damages.
- (b) Statutory damages
- (c) costs and reasonable fees
- (d) punitive damages
- (e) For such other relief as the court may deem just and proper.

Amy Bartels/Pro Se:  
1447 Valley View Drive  
Unit A  
Coralville, Iowa 52241

Amy Bartels

**DEMAND FOR JURY TRIAL**

Please take note that Plaintiff demands trial by jury in this action.

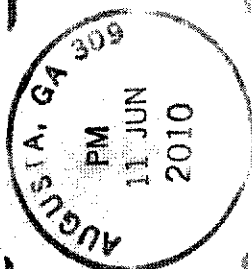
Date: 6/10/10

Signature: Amy Bartels

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At Albuquerque NM  
JUN 1

JUN 14 2010

MATTHEW J. DYKMAN  
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Clerk, U.S. District Court  
District of New Mexico  
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Albuquerque, NM 87102